

REMARKS

The following remarks are submitted in response to the Office Action issued in the above-identified application on July 5, 2006. A petition for a 3-month extension of time, together with the applicable extension fee accompanies this amendment and response.

In the Office Action of July 5, 2006, claims 1-31 of this application were examined. Claims 1-15, 17-25, and 29-31 were rejected, claim was 16 objected to, and claims 26-28 allowed. No claims have been cancelled or added by this amendment, so claims 1-31 of this application are still pending. Therefore, no extra claim fee is required.

In view of the clarifying amendments contained in the above listing of claims and the remarks below, applicant submits that the pending claims of this application are now in condition for allowance.

Claim Rejections—35 USC §102

Claim 1: Ruffio

Claim 1 stands rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 1,665,380 to Ruffio.

Ruffio discloses a woman's headdress having fake hair attached directly to the headdress. In Ruffio, a "woven fabric" material is attached between two combs with tufts of hair being secured to the woven fabric material. Unlike the stretch comb hair retainer of applicant's invention, the fabric material stretched between the two combs of Ruffio are intended to be concealed beneath the hair and hidden from view. To achieve this objective, Ruffio teaches to

provide a fabric material that narrows at its midsection (10a).

While Ruffio discloses the woven fabric material between the combs as being “elastic,” there is nothing in Ruffio that discloses or suggests an elastic mesh in accordance with applicant’s invention, which provides for stretchable openings through which an amount of the wearer’s hair can be pulled. In Ruffio, the mesh fabric material is a tightly woven fabric with very small openings in the weave of the mesh. The tightness of the Ruffio mesh is reinforced by the characterization of this mesh as a “fabric,” which is defined in Miriam Webster’s 11th Collegiate Dictionary as a “material that resembles cloth.” A cloth-like material is not suggestive of a mesh formed by individual elastic strands having stretchable openings, as in applicant’s invention. The fabric quality of the woven material of Ruffio is further seen in the alternative embodiment illustrated in Fig. 4, wherein the length of the fabric can be adjusted by means of a buckle provided at the midsection of the fabric. The need for such a buckle for length adjustability indicates that the stretchability of the fabric in the Ruffio headdress is extremely limited.

Finally, it is noted that Ruffio is silent as to how the hair tufts (12) are secured to the woven fabric band (10). The reader is left to speculate as to how securement is achieved, however, Fig. 3 of Ruffio suggests that the attachment is intended to be a surface attachment, such as by gluing or sewing. Again, Ruffio does not disclose or teach a mesh formed by relatively loose elastic strands that provide openings that can be stretched apart so that an amount of the wearer’s hair can be pulled through the opening.

It is noted that claim 1 has been amended to clarify that the stretchable elastic mesh secured between the spines of the combs of applicant's stretch comb hair retainer are formed by elastic strands extending between the spines of the combs so as to form stretchable openings through which an amount of the wearer's hair can be pulled. As discussed above, Ruffio clearly does not disclose a mesh material with such stretchable openings.

Applicant has further amended claim 1 to clarify that the width of the elastic mesh is comparable to the width of the opposed combs between which the mesh is secured. This amendment, which clarifies the invention in light of conventional hair nets such as disclosed by Ruffio, is discussed in more detail below.

Therefore, applicant respectfully requests that the examiner's Section 102 rejection of claim 1 based on Ruffio be withdrawn.

Claims 1, 3, 4, and 6: Selson

Claims 1, 3, 4, and 6 stand rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 2,651,310 to Selson. Selson discloses a hair net having an elastic headband provided with fasteners for attaching one or more hair pieces around the headband. The hair net is intended to be covered up the head, such as by a bandana, shawl, turban, or hat (col 2:27-29), with attached hairpieces dangling below the head cover to simulate natural hair. In one embodiment (Fig. 3), Selson discloses to use a comb in combination with a hairpiece, whereby the comb/hairpiece combination is fastened to the headband.

Selson fails to disclose a stretch comb hair retainer in accordance with applicant's

invention. First, Selson fails to disclose a stretchable elastic mesh secured between the spines of opposed combs, as claimed by the examiner. Rather it discloses an elastic webbing (denoted by the numeral 3 in Fig. 1) inserted in the hair net's circumferential headband (2). It appears that the examiner has incorrectly read Selson as disclosing that hair net itself is elastic. It is only head band of Selson that has an elastic component.

Second, the optional and attachable combs disclosed in Selson are not opposed combs, but combs that would be attached beneath the hairpieces in a distributed relationship around the fastener-laden headband of Selson. Therefore, applicant respectfully submits that the examiner has incorrectly characterized the optional combs disclosed in Selson as "opposed combs."

Similarly, Selson does not disclose elastic strands that are secured at spaced intervals to the spines of opposed combs, as recited in claim 3. The elastic web material of Selson is not secured to the combs, but instead is a part of the headband remote from the portion of the headband where the combs are attached.

With respect to claims 4 and 6, the examiner's rejection of these claims as being anticipated by Selson also appear to be predicated on the examiner's incorrect characterization of the characteristics of the Selson hair net. As mentioned, the hair net of Selson is not an elastic hair net, and could not be characterized as an elastic mesh having stretchable openings as required by claims 4 and 6.

It is respectfully requested that the rejection of claims 1, 3, 4 and 6 under §102(b) based on Selson be withdrawn.

Claim Rejections—35 USC §103

Claims 2, 5, and 12-14: Ruffio/JP ‘131

Claims 2, 5, and 12-14 stand rejected under 35 USC §103(a) as being unpatentably obvious over Ruffio in view of JP Pat. #409299131A, which illustrates a comb having twisted wire teeth. Applicant acknowledges that she did not invent wire combs having twisted wire teeth. Rather, applicant's invention, as recited in claims 2, 5, and 12-14 are directed to the advantageous use of wire combs as the opposed combs in the stretch comb hair retainer of applicant's invention. None of the prior art of record teaches or suggests the use of wire combs the combination recited by applicant, namely, the use of two opposed wire combs between which there is secured a stretchable elastic mesh formed by elastic strands extending between the spines of the combs so as to form stretchable openings through which an amount of the wearer's hair can be pulled.

It is noted that wire combs have relatively thin wire teeth and are relatively light weight as compared to more conventional plastic combs. Consequently, wire combs tend to slip out of the hair in normal use as a single hair retaining device. This would suggest against their use in an arrangement of opposed combs inserted in the hair which are intended to holdup against the restoring forces of a stretched elastic mesh secured between the combs. What applicant has discovered is that wire combs can indeed advantageously be used in a stretch comb hair retainer used in the manner of applicant's invention, that is, where the opposed combs are flipped over to face each other before inserting them in the hair. Applicant has discovered that wire combs used

in this manner not only produce a light weight stretch comb retainer that is relatively comfortable to wear but has staying power. When used as taught by applicant, the wire combs do not exhibit the normal tendency to fall out of the hair.

With regard to the examiner's application of Ruffio to the rejection of claims 2, 5, and 12-14, as discussed above, Ruffio does not disclose the stretchable elastic mesh as recited in claim 1, and as clarified by the claim 1 amendments. With respect to claim 2, the examiner has not indicated how the untranslated copy of the JP '131 reference teaches to use wire combs in a stretch comb hair retainer, wherein the wire combs, rather than being used as individual combs in the hair, are used in combination with a stretchable elastic mesh as recited in applicant's claims.

With respect to claim 5, again, Ruffio does not disclose use of a stretchable elastic mesh formed by elastic strands so as to form stretchable openings through which the wearer's hair can be pulled, much less the advantageous configuration of providing stretchable openings of at least two different sizes.

With respect to claims 12-14, the examiner acknowledges that applicant's preferred size of the elastic mesh between the opposed combs is not disclosed in the cited references, but nonetheless rejects these claims as being a mere change in the size of a known component. In support of this rejection, the examiner cites *In re Rose*, 105 USPQ 237 (CCPA 1955).

Applicant submits that *In re Rose* is inapplicable to this case. The size of applicant's stretchable elastic mesh is not the mere scaling of a known component, but recitation of a discovered optimal size range for a component not disclosed in the cited references. *In re*

Rinehart, 198 USPQ 143 (CCPA 1976).

In view of the foregoing remarks, and applicant's clarifying amendments to claim 1, it is respectfully requested that examiner's §103 rejections of claims 2, 5, and 12-14, based on Ruffio in view of the JP '131A reference be withdrawn.

Claims 7-9, 15, 23-24: Selson/Lorbiecki

Claims 7-9, 15, 23-24 stand rejected under 35 USC §103(a) as being unpatentable over Selson in view of U.S. Patent No. 1,564,079 to Lorbiecki. Lorbiecki discloses a common hair net with ornamenting elements (8) secured to the hair net by tying elements (9). Like the conventional hair net construction of Selson, Lorbiecki fails to disclose the use of elastic strand materials, and particularly fails to disclose a stretchable elastic mesh secured between opposed combs, as in applicant's invention, wherein the mesh is comprised of elastic strands that form stretchable openings through which an amount of the wearer's hair can be pulled. With respect to claim 7, Lorbiecki further fails to disclose the use of substantially clear elastic strands for producing such a stretchable opening mesh.

In order to further clarify applicant's invention over conventional hair net art, such as shown in Selson and Lorbiecki, it is noted that applicant has further amended claims 1, 15, and 29 to clarify that the stretchable elastic mesh formed by elastic strands extending between applicant's opposed combs have a defined width, which is comparable to the widths of the combs themselves. This provides a balance construction, such that, when the hair retainer is worn, its stretchable elastic mesh pulls the combs relatively evenly and smoothly together, while allowing

quantities of hair to be pulled through the stretchable openings of the mesh. Such a construction permits a stretch comb retainer through which hair can be pulled to be securely engaged in the hair without the combs slipping out of place. A conventional hair net would not provide balanced retaining forces on any combs that might be attached to the hair net such as shown in Selson.

Applicant respectfully requests that the examiner's Section 103 rejections of claims 7-9, 15, 23-24 under Selson and Lorbiecki be withdrawn.

Claims 10-11, 17-19, 25: Selson/Lorbiecki/Moffat

Claims 10-11 and 17-19 and 25 are rejected under 35 USC §103(a) as being unpatentable over Selson in view of Lorbiecki, and further in view of U.S. Patent No. 5,154,196 to Moffat. Applicant refers to her comments above with respect to Selson and Lorbiecki. With respect to the Moffat reference, Moffat simply discloses the beading of hair barrettes using non-elastic beading wire, and the use of additional beading wire and beads between the barrettes. The barrettes work independently of each other, and the beaded wires connected between the barrettes serve no function other than a decorative function. Moffat fails to disclose or teach the beading of an elastic mesh as in applicant's invention, wherein the mesh produces tension between opposed combs for retaining the combs in the hair while providing stretchable openings through which an amount of the wearer's hair can be pulled.

Applicant therefore respectfully requests that the examiner's Section 103 rejections of claims 10-11 and 17-19 and 25 under Selson, Lorbiecki and Moffat be withdrawn.

Claim 20: Selson/Lorbiecki/JP '131

Claim 20 stands rejection under §103(a) as being unpatentably obvious over Selson in view of Lorbiecki, and further in view of JP '131. Applicant's comments on Selson, Lorbiecki, and JP '131 equally apply to this claim rejection.

Claims 29-31: Kuglen '086/JP '131

Claims 29-31 stand rejected under §103(a) as being unpatentably obvious over U.S. Patent No. 6,123,086 to Kuglen in view of the JP '131 reference. Kuglen discloses a hair retainer comprised of two opposed combs, which are conventional plastic combs, interconnected by fabric-covered elastic bands. Kuglen '086 does not disclose a stretchable mesh secured between wire combs. And, as discussed above, there is no apparent teaching or suggestion to use the wire comb shown of JP '131 in conjunction with a stretch comb hair retainer having opposed combs connected by a stretchable elastic mesh, where in use the combs are required to hold back the restoring forces of the strands of the stretched mesh. Indeed, the very characteristics of wire combs teaches away from such use.

Applicant therefore respectfully requests that the examiner's Section 103 rejections of claims 29-31 based on Kuglen '086 in view of JP '131 be withdrawn.

Claims 21 and 22: Kuglen '086

Claims 21 and 22 stand rejected under 35 USC §103(a) as being unpatentably obvious over the Kuglen '086 patent alone. As above noted, the Kuglen patent discloses fabric covered elastic bands extending between its opposed combs. These bands are parallel bands that do not

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form an elastic mesh with stretchable openings. To clarify claims 21 and 22, these claims are amended to recite that the stretchable openings are formed by elastic strands woven between the spines of the combs. Kuglen does not provide a weave of elastic material, but rather simply a parallel configuration of bands.

Applicant therefore respectfully requests that the examiner's Section 103 rejections of claims 21-22 based on Kuglen '086 in view of JP '131 be withdrawn.

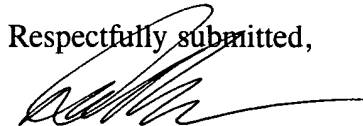
Miscellaneous Claim Amendments

Finally, it is noted that applicant has made a number of clarifying amendments to the claims not specifically discussed above. These amendments include adding the term "hair" between "comb" and "retainer" in claims 2-31, and removing the term "filament" in reference to the elastic strands recited in claims 7-10, 15-17, and 24-26. Also, the recitation of the comb teeth is no longer qualified by the term "parallel."

In view of the foregoing amendments and remarks, applicant submits that the present application is in condition for allowance, and a request for which is hereby respectfully made.

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Respectfully submitted,



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